

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/7706, 431	11/03/00	WALKER	J 97-169X

022927  
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FIVE HIGH RIDGE PARK  
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QM12/0410

EXAMINER
KASICK, J

ART UNIT	PAPER NUMBER
3713	3

DATE MAILED: 04/10/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/706,431	WALKER ET AL.
	Examiner Julie K Kasick	Art Unit 3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 03 November 2000.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

15) Notice of References Cited (PTO-892)

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2

18) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

19) Notice of Informal Patent Application (PTO-152)

20) Other: \_\_\_\_\_

**DETAILED ACTION**

***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hamano, U.S. Patent No. 4,560,161. Hamano discloses a card game machine. The machine generates a subject game element (cards) having a first class (rank/suit). The game elements are displayed consequently an indicia of the first class is displayed. A second class is assigned to the subject game element. The subject game element is displayed; thus, displaying an indicia of the second class (Fig. 6 & col. 2 lines 49-67; col. 3 lines 1-36). For example. In Figure 6 (2), the subject game elements are the cards making up a poker hand. All of the cards have a first class representing their suit and rank. A player decides to change one of the cards and a second class is assigned to one of the

cards in the hand. Figure 6 (2) shows a five of spades (first class) assigned to the fifth card of the poker hand (subject game element). Figure 6 (3) shows a nine of diamonds (second class) now assigned to the fifth card of the poker hand. Thus a second class was assigned to the subject game element and displayed.

#### ***Citation of Relevant Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Hooker et al., U.S. Patent No. 3,733,075.

--Hooker et al. discloses a slot machine. Players have the ability to change one of the symbols of the combinations to form a new combination with increased play value.

2. Netley et al., U.S. Patent No. 5,868,618.

--Netley et al. teaches of a video draw poker game. In the game a card can be discarded and a new card is dealt.

3. Barrie, U.S. Patent No. 5,980,384.

--Barrie discloses a gaming apparatus. Primary game symbols can be moved to secondary game display positions.

#### ***Conclusion***

This is a continuation of applicant's earlier Application No. 09/004,885.

All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the

next Office action if they had been entered in the earlier application.

Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Kasick whose telephone number is 703-308-7306. The examiner can normally be reached on M-F 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 703-308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7768 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.



Julie Kasick  
March 8, 2001



V. Martin-Wallace

VALENCIA MARTIN-WALLACE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700